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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/467,333	12/20/1999	DOUGLAS JOSEPH DOBROZSI	7804	2248

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THE PROCTER & GAMBLE COMPANY
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EXAMINER

WEBMAN, EDWARD J

ART UNIT	PAPER NUMBER
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1617

DATE MAILED: 08/01/2003

28

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/46733

Applicant(s)

DOBROSZ

Examiner

WEBMAN

Group Art Unit

1617

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 5/2/03
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 21-26, 28-33, 35, 36 is/are pending in the application.
- ☐ Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 21-26, 28-33, 35, 36 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

Art Unit: 1617

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 21-26, 28-32, 35, 36 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Sorrentino in view of Lin et al.

10/23/03
Sorrentino et al teach a liquid composition comprising ^{an} antitussive (abstract). Up to 75% of a co solvent such as ethanol is disclosed (column 4 lines 14-25).

Antioxidants such as BHT and BHA are specified (column 4 lines 49-50).

Lin et al teach the equivalence of TBHQ to BHT and BHA as antioxidants (column 3 line 7 column 4 line 2).

10/27/03
It would have been obvious to one of ordinary skill to ^{substitute TBHQ for BHT} or BHA in the composition of Sorrentino et al for its beneficial effect as an antioxidant in view of the teaching of its equivalence to BHT and BHA as taught in Lin et al. As to the claimed amount of antioxidant, Lin et al teaches a suitable amount (Table 1B).

Claims 21-26, 28-33, 35, 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 93/00072 (WO '072) in view of Lin et al.

WO '072 teaches a composition comprising an 1-40% of a pharmaceutical active 20-40% PEG and 1-50% of a monohydric alcohol (page 4 lines 14-26). Analgesics are disclosed (page 8 line 35). Antioxidants are specified (page 13 line 35).

Lin et al teach TBHQ as a conventional antioxidant excipient (column 3 line 59 – column 4 line 5). A suitable amount is specified (Table 1B).

Art Unit: 1617

It would have been obvious to one of ordinary skill to add TBHA to the composition of WO '072 for its beneficial effect as a conventional antioxidant except in view of Lin et al.

The disclosure is objected to because of the following informalities: On page 8-second full paragraph, applicants specify sodium thiosulphate and thiourea. As having a reduction potential about equal to or greater than 0.114 v. However, Wells, cited in the same paragraph, indicates that thiourea has a reduction potential of only -.029V and sodium thiosulphate has a reduction potential of only -0.050V (see p. 272 Table 5.7).

Appropriate correction is required.

Claim 33 is objected to because of the following informalities: See the above objection to the spec. Appropriate correction is required.

No claims allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward Webman whose telephone number is (703) 308-4432. The examiner can normally be reached on Monday to Friday 9 Am 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Padmanabhan can be reached on (703) 305-1877. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3592 for regular communications and (703) 305-3592 for After Final communications.

Application/Control Number: 09/467,333

Page 4

Art Unit: 1617

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

Webman/LR
July 15, 2003


EDWARD J. WEBMAN
PATENT ATTORNEY
GROUP 1617